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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 * * *

5 DARREN HEYMAN,

Case No. 2:15-cv-1228-RFB-GWF

6 Plaintiff,

7 v.

ORDER

8 STATE OF NEVADA EX REL. BOARD OF
9 REGENTS OF THE NEVADA SYSTEM OF
10 HIGHER EDUCATION ON BEHALF OF
11 UNIVERSITY OF NEVADA, LAS VEGAS,
et al.,

Defendants.

12 This matter is before the Court on Plaintiff's Motion to Strike Defendant Montgomery's
13 Second Response (ECF No. 354) and his Motion for Sanctions (ECF No. 355) against Defendant
14 Montgomery, filed on May 8, 2018. Defendant Montgomery filed her Responses (ECF Nos. 358,
15 359) on May 21, 2018.

16 On April 13, 2018, Plaintiff filed his Counter-Motion for Sanctions (ECF No. 338) and
17 Defendant filed her Response (ECF No. 340) in the same document as her Reply (ECF No. 339)
18 to her Motion for Contempt. On April 26, 2018, Defendant re-filed her Response (ECF No. 346)
19 to Plaintiff's Counter-Motion for Sanctions. Plaintiff argues that Defendant filed a supplemental
20 response without leave of court and requests that the Court strike the response. Plaintiff further
21 requests that the Court sanction Defendant for failing to abide by the Local Rules and Federal
22 Rules of Civil Procedure. Defendant argues that she filed a separate response to ensure compliance
23 with the Local Rules and that she did not attach additional points and authorities or substantively
24 alter her argument in the second filed response.

25 Under Rule 12(f), the Court may strike from a pleading an insufficient defense or any
26 redundant, immaterial, impertinent, or scandalous matter. Fed. R. Civ. P. 12(f). The essential
27 function of a Rule 12(f) motion is to avoid the expenditure of time and money that must arise from
28 litigating spurious issues by dispensing with those issues prior to trial. *Fantasy, Inc. v. Fogerty*,

1 984 F.2d 1524, 1527 (9th cir. 1993), *rev'd on other grounds*, 510 U.S. 517, 114 S. Ct. 1023. LR
2 7-2(g) states that “[a] party may not file supplemental pleadings, briefs, authorities, or evidence
3 without leave of court granted for good cause. The judge may strike supplemental filings made
4 without leave of court.” Whether to grant a motion to strike lies within the sound discretion of the
5 district court. *Roadhouse v. Las Vegas Metro. Police Dep’t*, 290 F.R.D. 535, 543 (D. Nev. 2013).
6 It appears that Defendant initially filed her response to Plaintiff’s counter-motion for sanctions in
7 a combined filing with her reply to her motion for contempt and then re-filed her response to
8 Plaintiff’s counter-motion for sanctions with the inclusion of an introductory paragraph. The Court
9 denies Plaintiff’s request to strike Defendant’s response (ECF No. 346) on the basis that it does
10 not contain substantively supplemental points and authorities in response to Plaintiff’s counter-
11 motion for sanctions.

12 Plaintiff requests sanctions against Defendant Montgomery and her counsel for failing to
13 abide by the Local Rules and the Federal Rules of Civil Procedure pursuant to the Court’s inherent
14 power to sanction. Whether to impose sanctions under the Court’s inherent power lies within the
15 Court’s discretion. *Gomez v. Vernon*, 255 F.3d 1118, 1134 (9th Cir. 2001). A court must exercise
16 its inherent powers “with restraint and discretion,” and must make a specific finding of bad faith
17 before sanctioning under its inherent powers. *Yagman v. Republic Ins.*, 987 F.2d 622, 628 (9th
18 Cir.1993). Defendant did not act in bad faith and sanctions against her or her counsel are not
19 warranted. The Court, therefore, denies Plaintiff’s request for sanctions. Accordingly,

20 **IT IS HEREBY ORDERED** on Plaintiff’s Motion to Strike Defendant Montgomery’s
21 Second Response (ECF No. 354) is **denied**.

22 **IT IS FURTHER ORDERED** that Plaintiff’s Motion for Sanctions (ECF No. 355) is
23 **denied**.

24 Dated this 27th day of June, 2018.

25
26 
27 GEORGE FOLEY, JR.
28 UNITED STATES MAGISTRATE JUDGE